

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

PAUL LLOYD TYREE,

2:12-CV-00192-JE

Petitioner,

ORDER

v.

MARK NOOTH,

Respondent.

BROWN, Judge.

Magistrate Judge John Jelderks issued Findings and Recommendation (#84) on April 14, 2015, in which he recommends the Court grant Petitioner Paul Lloyd Tyree's Petition (#2) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 as to Ground Two related to Petitioner's conviction for Sexual Abuse of M.V. in the First Degree, deny the Petition as to the remaining asserted grounds related to Petitioner's convictions for other

crimes, and order Respondent "to immediately recalculate petitioner's sentences and void the sentence as to Count 4 if the petitioner is not given a new trial on Count 4 within 60 days of entry of judgment in this case." Petitioner and Respondent filed timely Objections. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*).

In their Objections both parties reiterate the arguments contained in their submissions related to the Petition. This Court has carefully considered the parties' Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### CONCLUSION

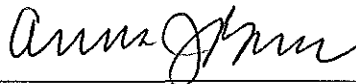
The Court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendation (#84) and, therefore, **GRANTS** the Petition (#2) for

Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 as to Ground Two related to Petitioner's conviction for Sexual Abuse of M.V. in the First Degree, **DENIES** the Petition as to the remaining asserted grounds related to Petitioner's convictions for other crimes, and **ORDERS** Respondent to recalculate Petitioner's sentences.

The Court **DIRECTS** the parties to file a Joint Status Report no later than 60 days after the entry of Judgment advising the Court of the status of this matter. The Court advises the parties that if Petitioner is not given a new trial on Count 4 within 60 days of the entry of Judgment in this case, Petitioner's sentence as to Count 4 is vacated.

IT IS SO ORDERED.

DATED this 5<sup>th</sup> day of June, 2015.



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ANNA J. BROWN

United States District Judge